

FILED

2012 SEP -6 AM 10:30

CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
LOS ANGELESUNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

LOUDEN, LLC,) NO. ED CV 12-1410 UA (DUTYx)
Plaintiff,)
v.) ORDER SUMMARILY REMANDING
VICTOR MARQUEZ, et al.,) IMPROPERLY-REMOVED ACTION
Defendants.)

The Court will remand this unlawful detainer action to state court summarily because defendant Hector A. Ibarra ("defendant") removed it improperly.

On August 22, 2012, defendant, having been sued in what appears to be a routine unlawful detainer action in California state court, lodged a Notice Of Removal of that action to this Court and also presented an application to proceed in forma pauperis. The Court has denied the latter application under separate cover because the action was not properly removed. To prevent the action from remaining in jurisdictional limbo, the Court issues this Order to remand the action to state court.

Plaintiff could not have brought this action in federal court in the first place, in that defendant does not competently allege facts supplying either diversity or federal-question jurisdiction, and therefore removal is improper. 28 U.S.C. § 1441(a);¹ see Exxon Mobil Corp v.

¹ 28 USC § 1441(a) provides that:

Except as otherwise expressly provided by Act of Congress, any civil action

Allapattah Svcs., Inc., 545 U.S. 546, 563, 125 S.Ct. 2611, 2623 (2005). As an initial matter, the state court complaint attached to the Notice of Removal asserts only a single cause of action for unlawful detainer pursuant to California Code of Civil Procedure § 1166a. (See Notice of Removal at Exh. A). Accordingly, the state court complaint discloses no federal statutory or constitutional question. See Wescom Credit Union v. Dudley, 2010 WL 4916578, at *2 (C.D. Cal. 2010) (“An unlawful detainer action does not arise under federal law.”); Indymac Federal Bank, F.S.B. v. Ocampo, 2010 WL 234828, at *2 (C.D. Cal. 2010) (“No federal claim is alleged in the Complaint[]” where “[t]he Complaint contains a single cause of action for unlawful detainer.”).

Moreover, the Court finds unpersuasive defendant's contention that federal question jurisdiction exists because defendant filed a demurrer in state court based on plaintiff's alleged noncompliance with the notice requirements of the Protecting Tenants at Foreclosure Act, 12 U.S.C. § 5220 ("PTFA"), and therefore "Defendant's issue is properly a matter for resolution in Federal Court and not in State Court." (Notice of Removal at 3-5; see id. at Exh. B). It is well-settled that "a case may *not* be removed to federal court on the basis of a federal defense . . . even if the defense is anticipated in the plaintiff's complaint, and even if both parties concede that the federal defense is the only question truly at issue." Caterpillar Inc. v. Williams, 482 U.S. 386, 393, 107 S.Ct. 2425, 2430 (1987) (italics in original). Nor can a counterclaim "serve as the basis for [§ 1331²] 'arising under' jurisdiction." Holmes Grp., Inc. v. Vornado Air Circulation Sys., Inc., 535 U.S. 826, 830-32, 122 S.Ct. 1889, 1893-94 (2002). Thus, to the extent defendant's defenses or counterclaims to the unlawful detainer action are based on alleged violations of federal law, those allegations do not provide a basis for federal-question jurisdiction.³ See Williams v. Singh,

brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.

² 28 U.S.C. § 1331 provides that “[t]he district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.”

³ Even if a defense or counterclaim could give rise to federal question, the PTFA does not create a private right of action or an independent basis for federal subject matter jurisdiction. See,

1 2012 WL 1414333, at *1 (E.D. Cal. 2012) ("there is no subject matter jurisdiction" where
 2 defendant's removal petition states that defendant filed a demurrer in state court under the PTFA,
 3 because "such a defense cannot provide a sufficient basis to remove the action to federal
 4 court[]"); Bank of New York Mellon v. Germanelo, 2012 WL 1536543, at *2 (N.D. Cal. 2012) (no
 5 federal question jurisdiction where defendant filed a demurrer in state court based on plaintiff's
 6 alleged noncompliance with the PTFA because "Defendant's defenses or counterclaims to the
 7 unlawful detainer action . . . do not provide a basis for federal jurisdiction").

8 Finally, even if complete diversity of citizenship exists, the amount in controversy does not
 9 exceed the diversity-jurisdiction threshold of \$75,000. See 28 U.S.C. §§ 1332,⁴ 1441(b).⁵ On the
 10 contrary, the state court complaint recites that the amount in controversy does not exceed
 11 \$10,000. (See Notice of Removal at Exh. A). Thus, because the amount in controversy is less
 12 than \$75,000, diversity jurisdiction is also lacking. See 28 U.S.C. § 1332(a); St. Paul Mercury
 13 Indem. Co. v. Red Cab Co., 303 U.S. 283, 291, 58 S.Ct. 586, 591 (1938) (the status of the case
 14 as disclosed by the plaintiff's complaint is controlling for purposes of removal).

15 Accordingly, IT IS ORDERED that:

16 1. This matter shall be REMANDED to the Superior Court of California, San Bernardino

18 e.g., BDA Investment Properties LLC v. Sosa, 2011 WL 1810634, at *3 (C.D. Cal. 2011); Aurora
 19 Loan Servs. LLC v. Torres, 2011 WL 4551458, at *1 (N.D. Cal. 2011); Nativi v. Deutsch Bank Nat'l
 20 Trust Co., 2010 WL 2179885, at *2-4 (N.D. Cal. 2010).

21 ⁴ 28 U.S.C. § 1332(a) provides that diversity jurisdiction exists only in suits between citizens
 22 of different states and "where the matter in controversy exceeds the sum or value of \$75,000,
 23 exclusive of interest and costs."

24 ⁵ 28 U.S.C. § 1441(b) provides that:

25 (1) In determining whether a civil action is removable on the basis of the
 26 jurisdiction under section 1332(a) of this title, the citizenship of defendants
 27 sued under fictitious names shall be disregarded.

28 (2) A civil action otherwise removable solely on the basis of the jurisdiction
 29 under section 1332(a) of this title may not be removed if any of the parties
 30 in interest properly joined and served as defendants is a citizen of the State
 31 in which such action is brought.

1 County, Fontana District, Fontana Courthouse, 17780 Arrow Boulevard, Fontana, CA 92335, for
2 lack of subject matter jurisdiction pursuant to 28 U.S.C. § 1447(c).

3 2. The Clerk shall send a certified copy of this Order to the state court.

4 3. The Clerk shall serve copies of this Order on the parties.

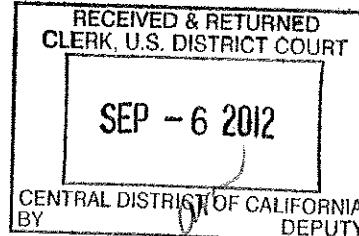
5
6 DATED: 8/30, 2012.

AUDREY B. COLLINS
CHIEF UNITED STATES DISTRICT JUDGE

NAME, ADDRESS & TELEPHONE NUMBER OF ATTORNEY(S) FOR, OR, PLAINTIFF OR DEFENDANT IF PLAINTIFF OR DEFENDANT IS PRO PER

Hector A IBARRA
11309 DRIFTWOOD DRIVE
FONTANA CA 92337-0606
909-355-0243
909-3555550

ATTORNEYS FOR:



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

LODGEN, LLC
Plaintiff(s),
VICTOR MARQUEZ, CONSUELO IBARRA,
Hector A IBARRA, DOES,
1 TO 5
Defendant(s)

CASE NUMBER:
ED CV12-1410

CERTIFICATION AND NOTICE
OF INTERESTED PARTIES
(Local Rule 7.1-1)

TO: THE COURT AND ALL PARTIES APPEARING OF RECORD:

The undersigned, counsel of record for Hector A IBARRA (or party appearing in pro per), certifies that the following listed party (or parties) may have a direct, pecuniary interest in the outcome of this case. These representations are made to enable the Court to evaluate possible disqualification or recusal. (Use additional sheet if necessary.)

PARTY

CONNECTION

(List the names of all such parties and identify their connection and interest.)

<u>Hector A IBARRA</u>	<u>SELF</u>
<u>CONSUELO IBARRA</u>	<u>WIFE</u>

2012 AUG 22 PM12:02
LODGED
CLERK, U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
RECEIVED & RETURNED
CLERK, U.S. DISTRICT COURT
SEP - 6 2012
CENTRAL DISTRICT OF CALIFORNIA
BY DEPUTY

Aug 22nd, 2012
Date

Sign

Attorney of record for or party appearing in pro per

LODGED

1 HECTOR A. IBARRA
2 11309 Driftwood Drive
Fontana, CA. 92337
3 (951) 205-7188

4 Defendant IN PRO PER



10 LOUDEN, LLC

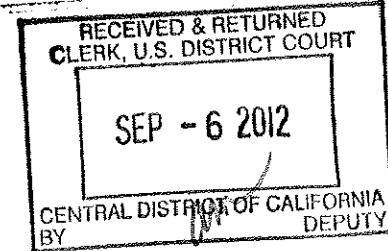
11 Plaintiff,

12 v.

13 VICTOR MARQUEZ; CONSUELO
IBARRA; HECTOR A. IBARRA,
DOES 1 TO 5

14 Defendants.

15
16
17
18
19 TO THE CLERK OF THE UNITED STATES DISTRICT FOR THE CENTRAL DISTRICT
20 OF CALIFORNIA:
21
22 PLEASE TAKE NOTICE that Defendant, HECTOR A. IBARRA, hereby remove to this
Court the state court action described below.
23
24 1. On June 12, 2012, Plaintiff Louden, LLC filed a complaint which is still pending in
the Superior Court of the State of California, County of San Bernardino, Fontana District entitled
25 Louden, LLC vs. Victor Marquez and Does 1 to 5, Case No. UDFS 1201076. On July 9, 2012, the
plaintiff appeared at the above referenced court on a Motion to Advance Defendant's Demurrer,
26
27
28



however, the plaintiff had not timely served the Defendant and the court ordered the Plaintiff to amend the complaint filed on June 12, 2012, file and re-serve the defendant. A true and correct copy of the Amended Summons and Complaint is attached hereto as **Exhibit “A”**.

2. Defendant had already filed a Demurrer June 20, 2012 Plaintiff's Unlawful Detainer Complaint, and a Pre-Judgment Claim of right to Possession. Defendant and his family were tenants in a single family residence which allegedly was foreclosed on by Plaintiff.

3. The Demurrer filed by Defendant on June 20, 2012 was not heard because the Plaintiff had failed to serve Defendant the Motion To Advance Defendant's Demurrer and the hearing was vacated.

4. Defendant was served with the Amended Complaint. Defendant amended his Demurrer and filed it concurrent with a Motion to Strike Plaintiff's Complaint. A true and correct copy of Defendant's Amended Complaint and Motion to Strike are attached hereto and made a part herein as **Exhibit "B."** The hearing on the Demurrer and Motion were set for August 17, 2012 at 1:15 p.m. in Department F9. The Court denied Defendant's Motion To Strike and Demurrer and informed Defendant to Answer the Complaint.

BASIS FOR REMOVAL

5. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. § 1331, and is one which may be removed to this Court by defendant pursuant to the provisions of 28 U.S.C § 1441(a) in that the issue is based on Federal law and not State law and Federal law takes precedence.

6. The unlawful detainer statutes, including CCP 1161 is purely statutory remedies created by the legislature; hence, it is competent for the legislature to determine the scope of the issues that may be tried in such an action. In an unlawful detainer action, a defendant is unable to

1 litigate. In a summary action, there are statutory time constraints and the focus is on possession
 2 ONLY. A defendant is unable to properly defend their position, especially if there is a federal law in
 3 which they try to defend on.

4 7. The Defendant alleges that he and his family are entitled to possession of the premises
 5 which is the subject of this complaint pursuant to the provisions of Public Law 111-22, signed by
 6 President Barack Obama and effective May 20, 2009, titled The Protecting Tenants at Foreclosure
 7 Act of 2009, Section 702 which states in pertinent part that:

8 (a) In the case of any foreclosure on a federally-related mortgage loan or on any
 9 dwelling or residential real property after the date of enactment of this title, (May
 10 2009), any immediate successor in interest in such property pursuant to the foreclosure
 11 shall assume such interest subject to—
 12 (1) the provision, by such successor in interest of a notice to vacate to any bona
 13 fide tenant at least 90 days before the effective date of such notice; and
 14 (2) **the rights of any bona fide tenant, as of the date of such notice of
 15 foreclosure—**
 16 (A) **under any bona fide lease entered into before the notice of
 17 foreclosure to occupy the premises until the end of the remaining term of
 18 the lease, except that a successor in interest may terminate a lease effective
 19 on the date of sale of the unit to a purchaser who will occupy the unit as a
 20 primary residence, subject to the receipt by the tenant of the 90 day notice
 21 under paragraph (1); or**
 22 (B) without a lease or with a lease terminable at will under state law,
 23 subject to the receipt by the tenant of the 90 day notice under subsection (1).

24 8. Under the Protecting Tenants at Foreclosure Act, which the Congress of the United
 25 States of America passed in May 2009, tenants like HECTOR IBARRA are eligible to stay after the
 26 property has been foreclosed as long as he has a valid lease and is paying his rent timely. Attached
 27 hereto as **Exhibit “C”** are true and correct copies of the lease agreement signed by Defendant at the
 28 initial and continuous stay at the residence located at 11309 Driftwood Drive, Fontana, CA. 92337.

29 9. California is one of the states that enacted state laws to enforce that foreclosing
 30 entities must have “Just Cause” to evict a tenant in a foreclosing property. Under the guidelines of
 31 this Federal Act and State laws, owners of foreclosed properties, including banks or other lenders,

1 must permit ***bona fide*** tenants to remain in their homes for the full length of their lease under the
2 existing lease terms, unless the new owner plans to live in the property as his or her primary
3 residence.

4 10. Notwithstanding any general or special law to the contrary, a foreclosing owner shall
5 not evict a tenant except for just cause or unless a binding purchase and sale agreement has been
6 executed for a bona fide third party to purchase the housing accommodation from a foreclosing
7 owner.

8 11. The legislative history of the act demonstrates that the Legislature, in promulgating the
9 act was attempting to address the problem that large numbers of residential tenants were being
10 evicted and left homeless by institutional lenders and other entities that purchased foreclosed houses
11 and apartment buildings. The Legislators appeared to be concerned that empty, foreclosed homes
12 and apartments were scarring neighborhoods and lowering property values, that large numbers of
13 former tenants were now homeless, and that the increase in the homeless population was placing a
14 greater burden on already strained State and local finances.

15 10. Louden, LLC is a Nevada Limited Liability Company doing business in California, it
16 is unlikely that it will relocate its business to the single family residence located at 11309 Driftwood
17 Drive, Fontana, CA. 92337. The Plaintiff, a “foreclosing owner” does not own a home to live in it; it
18 owns a home as an asset to be sold, and perhaps rented until it can be sold. Here the Defendant is
19 agreeing to continue with the lease agreement, paying the monthly payment as stated in the lease
20 agreement until the termination of the lease in May 2014.

21 11. With the above premises considered, the Defendant seeks to have this action heard
22 before the United States District Court, Central District of California, Los Angeles, so the federal
23 question “Protecting Tenants At Foreclosure Act of 2009” will be properly addressed and the
24
25

1 Defendant's rights are protected. Defendant's issue is properly a matter for resolution in Federal
2 Court and not in State Court.

3 WHEREFORE, defendant request that this Court accept this Notice of removal and that the
4 action pending in the Superior Court of the State of California, County of San Bernardino, Fontana
5 District, Case Number UDFS 1201076, be removed to this Court for all proceedings.
6

7 Dated: August ___, 2012

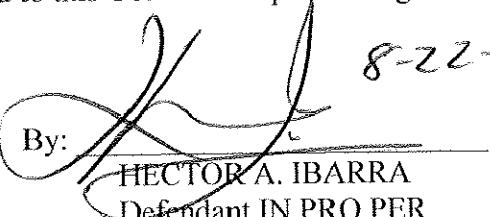
8 
9 By: **HECTOR A. IBARRA**
10 Defendant IN PRO PER

EXHIBIT “A”

(CITACION JUDICIAL)

UNLAWFUL DETAINER—EVICTION

(RETENCION ILICITA DE UN INMUEBLE—DESALOJO)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

NOTICE TO DEFENDANT:

(AVISO AL DEMANDADO):

VICTOR MARQUEZ; CONSUELO IBARRA; HECTOR A. IBARRA;
DOES 1 TO 5

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

LOUDEN, LLC

You have 5 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. (To calculate the five days, count Saturday and Sunday, but do not count other court holidays. If the last day falls on a Saturday, Sunday, or a court holiday then you have the next court day to file a written response.) A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

Tiene 5 DIAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. (Para calcular los cinco días, cuente los sábados y los domingos pero no los otros días feriados de la corte. Si el último día cae en sábado o domingo, o en un día en que la corte esté cerrada, tiene hasta el próximo día de corte para presentar una respuesta por escrito). Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

1. The name and address of the court is:
(El nombre y dirección de la corte es):
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
17780 ARROW HIGHWAY
FONTANA, CA 92335
FONTANA DISTRICT
2. The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
STEVEN D. SILVERSTEIN #86466
ATTORNEY AT LAW
14351 REDHILL AVE., SUITE G
TUSTIN, CA 92780
3. (Must be answered in all cases) An unlawful detainer assistant (Bus. & Prof. Code, §§ 6400–6415) did not did for compensation give advice or assistance with this form. (If plaintiff has received any help or advice for pay from an unlawful detainer assistant, complete item 6 on the next page.)

Date: JULY 12, 2012 Clerk, by _____, Deputy _____
(Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

4. NOTICE TO THE PERSON SERVED: You are served
 - a. as an individual defendant.
 - b. as the person sued under the fictitious name of (specify): _____
 - c. as an occupant
 - d. on behalf of (specify): _____

under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 CCP 415.46 (occupant) other (specify): _____

5. by personal delivery on (date): _____

1 STEVEN D. SILVERSTEIN
2 ATTORNEY AT LAW
3 14351 Redhill Ave., Suite G
Tustin, CA 92780
3 714-832-3651
BAR NO: 86466
4 Attorney for Plaintiff

5
6
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN BERNARDINO, FONTANA DISTRICT

10
11 LOUDEN, LLC) CASE NO. UDFS 1201076
12) FIRST AMENDED
13) COMPLAINT FOR
Plaintiff,) UNLAWFUL DETAINER
14 v.) [CCP SEC.1161a]
15 VICTOR MARQUEZ;)
CONSUELO IBARRA;) POSSESSION
HECTOR A. IBARRA;) UNDER \$10,000.00
DOES 1 TO 5)
Defendants,)
16

17 Plaintiffs, LOUDEN, LLC:

18 1. Plaintiffs, LOUDEN, LLC is a limited liability company.
19 (hereinafter "LOUDEN").
20 2. Defendant, VICTOR MARQUEZ; CONSUELO IBARRA; HECTOR A. IBARRA;
21 (collectively hereinafter "MARQUEZ") is, and at all times relevant
22 herein is, an adult residing within the jurisdiction of the Court.
23 3. The true names and capacities of the Defendant sued herein as
24 DOES 1 TO 5, are unknown to Plaintiff, who thereafter sues this
25 Defendant by this fictitious name. Plaintiff will amend this
26 Complaint to include the true names and capacities of this Defendant
27 when the same have been ascertained. Plaintiff is informed and
28 believes, and thereon alleges, that the fictitiously named Defendant

1 claims a right under the named Defendant to possession of the premises
2 against Plaintiff.

3 4. Defendant, MARQUEZ, herein, is the former owner of the
4 premises.

5 5. On or about 4-26-12, the residential real property located
6 11309 DRIFTWOOD DR., FONTANA, SAN BERNARDINO COUNTY, CA 92337 and
7 situated in the above-captioned judicial district (hereinafter
8 "PREMISES"), was sold by way of a non-judicial foreclosure sale
9 wherein which title of the PREMISES became vested with LOUDEN.

10 6. Title to the PREMISES was duly acquired by reason of a
11 trustee's non-judicial foreclosure sale in accordance with the terms
12 of the deed of trust executed by Defendant, MARQUEZ, herein, or a
13 person under whom Defendant claimed possession of the PREMISES. Said
14 trustee's sale was duly conducted in accordance with the law after
15 notice properly given, and more than three months thereafter, and
16 having given such notice of the terms and place of said sale in
17 accordance with the provisions of Section 2924 of the California Civil
18 Code, said trustee did sell the PREMISES and executed and delivered to
19 LOUDEN a deed thereto which contains the recital of compliance with
20 law as set forth in Civil Code Section 2924. By reason thereof, title
21 to the PREMISES has been duly perfected by LOUDEN.

22 7. On or about 4-26-12, Plaintiff caused to be served upon the
23 defendant a Three Day Notice to Quit and deliver possession of the
24 PREMISES (hereinafter "NOTICE") stating that Plaintiff had purchased
25 the PREMISES and that his title had been duly perfected and demanding
26 the Defendant, MARQUEZ, quit the premises within three days after
27 service of the NOTICE. Said NOTICE was served by posting a copy in a
28 conspicuous place of the PREMISES therein described, there being no

1 person of suitable age or discretion to be found at the PREMISES, and
2 by depositing said copies in the United States Mail, in an envelope
3 with postage fully prepaid, addressed to the Defendant, MARQUEZ, at
4 the place where the PREMISES is located. A true and correct copy of
5 the NOTICE is attached hereto as Exhibit 2 and incorporated herein by
6 reference.

7 8. More than three days have elapsed since the service of said
8 NOTICE upon the Defendant, MARQUEZ and Defendant has failed and
9 refused to deliver up possession and continues in possession of the
10 PREMISES without Plaintiff's permission or consent.

11 9. The reasonable rental value of the PREMISES is \$65.63 per
12 day, and the damages to Plaintiff proximately caused by Defendant, AL-
13 MARQUEZ'S unlawful detention have accrued at that rate so long as
14 Defendant remains in possession of the PREMISES.

15 10. Plaintiff will remit all sums in excess of the jurisdiction
16 of this Court.

17 WHEREFORE, Plaintiff, prays judgment as follows:

18 1. For restitution and possession of the PREMISES;
19 2. For \$65.63 per day from 5-1-12 until entry of judgment;
20 3. For Costs of suit incurred herein; and
21 4. For such other and further relief as the Court may deem
22 proper.

23 Dated: 7-12-12

24 STEVEN D. SILVERSTEIN
25 Attorney for Plaintiff



H O M E S

THREE DAY NOTICE TO QUIT PREMISES

[Code of Civil Procedure Section 1161a (b)(3)]

TO: THE FORMER OWNER OR TRUSTOR; and ALL OTHER PERSONS WHO ARE IN POSSESSION OF AND OCCUPY THE REAL PROPERTY LOCATED AT:

Victor Marquez
11309 Driftwood Dr. Pantana CA 92337

WHO ARE NOT RESIDENTIAL TENANTS OR SUBTENANTS OCCUPYING THE PROPERTY PURSUANT TO A RENTAL AGREEMENT OR LEASE

NOTICE IS HEREBY GIVEN that your right to occupy the real property at the above address has been terminated as a result of the purchase of said property by Louden, LLC ("Owner") by Trustee's Deed pursuant to a power of sale contained in a Trust Deed, which appeared of record against said property. Owner, or its principal, has duly perfected title to said property.

NOTICE IS FURTHER GIVEN that if you are a former trustor or owner of the above property, or if you are occupying or in possession of the property without a written or oral rental agreement or lease, at the expiration of THREE (3) DAYS, after service of this notice upon you, you are required to quit and surrender possession of the premises described above by delivering the keys to the premises to Owner's agent, Waypoint Homes, Inc., c/o Joseph Maehler during normal business hours at the following address: 620 Newport Center Drive, Suite 800, Newport Beach, CA 92660, (949) 629-9771. In the event that you do not surrender possession of the property to Owner within the three day period, legal proceedings will be commenced against you to recover possession of said property, court costs, any available damages and the reasonable value of the property for each day of your continued occupancy following the expiration of the Notice period.

NOTICE IS FURTHER GIVEN that if you are a bona fide tenant or subtenant in possession of the above property within the meaning of the Protecting Tenants at Foreclosure Act of 2009, then this Three Day Notice does not apply to you. If you are a bona fide tenant or subtenant of the property and if you are not the child, spouse, or parent of the former owner, then you will be subject to the NINETY DAY NOTICE served concurrently with this notice. If you are a bona fide tenant of the property, and you are not the child, spouse, or parent of the former owner, please notify Owner immediately and send proof of your tenancy to the above address and phone number.

NOTICE IS FURTHER GIVEN that if you do not qualify as a "bona fide" tenant because you are the child, spouse, or parent of the former owner, but are still a tenant or subtenant in possession of the above property within the meaning of California Code of Civil Procedure Section 1161a(c) or 1161b, then this Three Day Notice does not apply to you. If you are a tenant or subtenant of the property and if you

620 Newport Center Drive, 8th Floor
Newport Beach, CA 92660
direct: 949.629.9770
fax: 510.373.6333

EJ. J



H O M E S

are sharing occupancy of the property with the former owner, then you will be subject to the THIRTY DAY NOTICE served concurrently with this notice. If you are a tenant or subtenant of the property, and if you are not sharing occupancy of the property with the former owner, then you will be subject to the SIXTY DAY NOTICE served concurrently with this notice.

NOTICE IS FURTHER GIVEN that following the expiration of THREE (3) DAYS after service of this notice, Owner will commence eviction proceedings against the occupants of the property and will serve, with the summons and eviction complaint, a form entitled Prejudgment Claim of Right to Possession. If you are a tenant or subtenant subject to either the THIRTY DAY NOTICE, SIXTY DAY NOTICE, or the NINETY DAY NOTICE that were served concurrently with this notice, then in order to preserve the additional notice period, you will be required to complete the form and submit it to the Superior Court in which the proceedings were commenced.

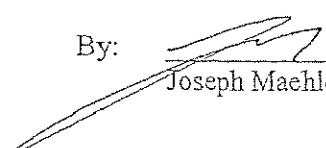
If you do not complete the Prejudgment Claim of Right to Possession form and submit the form to the appropriate Superior Court within ten days after its service upon you, then neither the Court nor the property's new owner will know that you may be entitled to the additional notice period under either the THIRTY DAY NOTICE, SIXTY DAY NOTICE, or the NINETY DAY NOTICE that were served concurrently with this notice, and your occupancy will instead be governed by this THREE DAY NOTICE.

PENAL CODE SECTION 594 STATES: EVERY PERSON WHO MALICIOUSLY DEFACES WITH PAINT OR ANY OTHER LIQUID, DAMAGES, OR DESTROYS ANY REAL OR PERSONAL PROPERTY NOT HIS OR HER OWN WILL BE PUNISHED BY FINE OR IMPRISONMENT OR BOTH.

Dated: 4/26/12

WAYPOINT HOMES, Inc.

By:


Joseph Maehler, Regional Director

620 Newport Center Drive, 8th Floor
Newport Beach, CA 92660
direct: 949.629.9770
fax: 510.373.6333

6X-2

DECLARATION OF SERVICE OF NOTICE

Name of Renter(s): Victor Marquez

Name of person served
(if other than renter): _____

Place of service: 11309 Driftwood Dr, Fontana CA 92337

Date and Time of service: 4/16/12 4:15 pm

I declare that:

I served a copy of the 3 Day Notice to Quit Premises on the renter(s) named above.

Delivering it personally to one or more of the renter(s) named above.

(IF UNABLE TO SERVE THE RENTER(S) PERSONALLY AFTER MAKING A DILIGENT EFFORT TO DO SO, INCLUDING AT LEAST THREE (3) ATTEMPTS AT DIFFERENT TIMES OR ON DIFFERENT DAYS AT THE PREMISES OR, IF KNOWN, AT THE RENTER(S) PLACE OF BUSINESS.)

Leaving a copy with the person named above, who is of suitable age and discretion, at the renter(s) premises/business and by sending a copy in a sealed envelope, by first class mail, postage prepaid, addressed to the renter(s) at the premises.

Affixing a copy to the front door of the premises and by sending a copy in a sealed envelope by first class mail, postage prepaid, addressed to the renter(s) at the premises, in as much as the renter(s) actual place of residence or business cannot be ascertained and/or a person of suitable age and discretion cannot be found at the renter(s) premises or business.

I am personally aware of these facts and I am competent to testify thereto as a witness. I declare, under penalty of perjury, that the foregoing is true and correct and that this declaration was executed on the following date and the following place:

DATE: 5/18/12

PLACE: Fontana, California


DECLARANT



Recorded in Official Records, County of San Bernardino

5/11/2012
12:38 PM
MP

WHEN RECORDED MAIL TO:

LOUDEN, LLC.
5440 TRABUCCO RD. SUITE H200
IRVINE CA 92620



DENNIS DRAEGER
ASSESSOR - RECORDER - CLERK

P Counter

Doc#: 2012-0183849

TRA# 010091
Trust No. 1288413-10



	Titles: 1	Pages: 2
Fees	18.00	
Taxes	165.00	
Other	12.25	
PAID	\$195.25	

MAIL TAX STATEMENT TO:

Same as above

Space Above This Line For Recorder

Documentary Transfer Tax \$165.00

Grantee was not the foreclosing beneficiary.
consideration \$150,000.00
unpaid debt \$185,945.94
non exempt amount \$

Computed on the consideration or value of
property conveyed.

Computed on the consideration of value less
liens or encumbrances remaining at time of sale.

Signature of Declarant or Agent
AP# 0236-512-22-0-000 **Selwa Ishoo**

TRUSTEE'S DEED UPON SALE

CAL-WESTERN RECONVEYANCE CORPORATION (herein called trustee)
does hereby grant and convey, but without covenant or warranty, express or implied to
LOUDEN, LLC., A NEVADA LIMITED LIABILITY COMPANY (herein called Grantee) the real property
in the county of SAN BERNARDINO, State of California described as follows:

LOT 82 OF TRACT NO 12354, IN THE CITY OF FONTANA, COUNTY OF SAN BERNARDINO,
STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 190 OF MAPS, PAGE(S)53 TO 67
INCLUSIVE RECORDS OF SAID COUNTY, EXCEPT THEREFROM ALL OIL, GAS, MINERALS
AND OTHER HYDROCARBON SUBSTANCES, LYING BELOW A DEPTH OF 500 FEET, WITHOUT
THE RIGHT OF SURFACE ENTRY, AS RESERVED IN INSTRUMENTS OF RECORD.

The street address and other common designation, if any, of the real property described above is purported to be:
11309 DRIFTWOOD DR
FONTANA CA 92337

This conveyance is made pursuant to the authority and powers vested in said Trustee, as Trustee, or Successor
Trustee, or Substituted Trustee, under that certain Deed of Trust executed by
MIGUEL ANGEL IBARRA A SINGLE MAN as Trustor, recorded November 18, 2003, as Document No.
2003-0863620, in Book XX, page XX, of Official Records in the Office of the Recorder of SAN
BERNARDINO County, California; and pursuant to the Notice of Default recorded July 06, 2010, as
Document No. 2010-0269135 in Book XX, page XX of Official Records of said County, Trustee having
complied with all applicable statutory requirements of the State of California and performed all duties required
by said Deed of Trust, including, among other things, as applicable, the mailing of copies of notices or the
publication of a copy of the notice of default or the personal delivery of the copy of the notice of default or the
posting of copies of the notice of sale or the publication of a copy thereof.

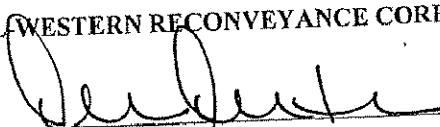
Ex 2

TRA # 010091
Trust No. 1288413-10

At the place fixed in the Notice of Trustee's Sale, said Trustee did sell said property above described at public auction on April 26, 2012 to said Grantee, being the highest bidder therefore, for \$150,000.00 cash, lawful money of the United States, in satisfaction pro tanto of the indebtedness then secured by said Deed of Trust.

CAL WESTERN RECONVEYANCE CORPORATION

Dated: April 26, 2012

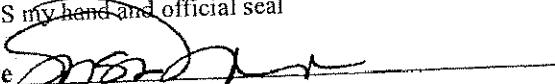

Susan Smothers, A.V.P.

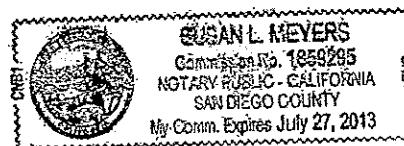
State of California)
County of San Diego)

On MAY 04 2012 before me, Susan L. Meyers, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

(Seal)

Signature 

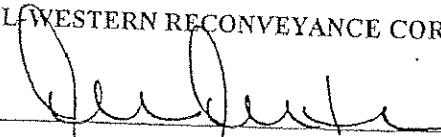


TRA # 010091
Trust No. 1288413-10

At the place fixed in the Notice of Trustee's Sale, said Trustee did sell said property above described at public auction on April 26, 2012 to said Grantee, being the highest bidder therefore, for \$150,000.00 cash, lawful money of the United States, in satisfaction pro tanto of the indebtedness then secured by said Deed of Trust.

CAL WESTERN RECONVEYANCE CORPORATION

Dated: April 26, 2012



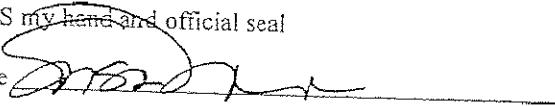
Susan Smothers, A.V.P.

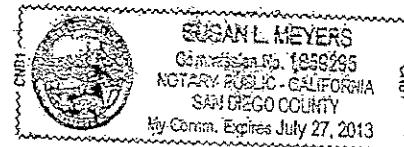
State of California)
County of San Diego)

On MAY 04 2012 before me, Susan L. Meyers, a Notary Public, personally appeared Susan Smothers, A.V.P., who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

(Seal)

Signature 



Ex. 2

NOTICE: EVERYONE WHO LIVES IN THIS RENTAL UNIT MAY BE EVICTED BY COURT ORDER. READ THIS FORM IF YOU LIVE HERE AND IF YOUR NAME IS NOT ON THE ATTACHED SUMMONS AND COMPLAINT.

1. If you live here and you do not complete and submit this form within 10 days of the date of service shown on this form, you will be evicted without further hearing by the court along with the persons named in the Summons and Complaint.
2. If you file this form, your claim will be determined in the eviction action against the persons named in the Complaint.
3. If you do not file this form, you will be evicted without further hearing.

CLAIMANT OR CLAIMANT'S ATTORNEY (Name and Address):		TELEPHONE NO.:	FOR COURT USE ONLY
ATTORNEY FOR (Name):			
NAME OF COURT: STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:			
PLAINTIFF: DEFENDANT:			
PREJUDGMENT CLAIM OF RIGHT TO POSSESSION			CASE NUMBER:
Complete this form only if ALL of these statements are true: <ol style="list-style-type: none"> 1. You are NOT named in the accompanying Summons and Complaint. 2. You occupied the premises on or before the date the unlawful detainer (eviction) Complaint was filed. 3. You still occupy the premises. 			<small>(To be completed by the process server)</small> DATE OF SERVICE: <small>(Date that this form is served or delivered, and posted, and mailed by the officer or process server)</small>

I DECLARE THE FOLLOWING UNDER PENALTY OF PERJURY:

1. My name is (specify):
2. I reside at (street address, unit No., city and ZIP code):
3. The address of "the premises" subject to this claim is (address):
4. On (insert date): [REDACTED], the landlord or the landlord's authorized agent filed a complaint to recover possession of the premises. (This date is the court filing date on the accompanying Summons and Complaint.)
5. I occupied the premises on the date the complaint was filed (the date in item 4). I have continued to occupy the premises ever since.
6. I was at least 18 years of age on the date the complaint was filed (the date in item 4).
7. I claim a right to possession of the premises because I occupied the premises on the date the complaint was filed (the date in item 4).
8. I was not named in the Summons and Complaint.
9. I understand that if I make this claim of right to possession, I will be added as a defendant to the unlawful detainer (eviction) action.
10. (Filing fee) I understand that I must go to the court and pay a filing of \$ [REDACTED] or file with the court the form "Application for Waiver of Court Fees and Costs." I understand that if I don't pay the filing fee or file with the court the form for waiver of court fees within 10 days from the date of service on this form (excluding court holidays), I will not be entitled to make a claim of right to possession.

(Continued on reverse)

I have read the foregoing UNLAWFUL DETAINER SUMMONS AND COMPLAINT

and know its contents.

CHECK APPLICABLE PARAGRAPHS

I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am an Officer a partner a of _____

a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. The matters stated in the foregoing document are true of my own knowledge, except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am one of the attorneys for PLAINTIFF

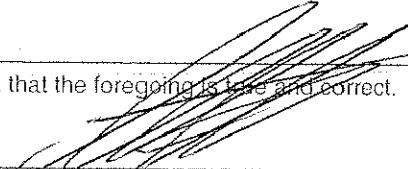
a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on 2012, at TUSTIN, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

STEVEN D. SILVERSTEIN

Type or Print Name


Signature

PROOF OF SERVICE

1013a (3) CCP Revised 5/1/88

STATE OF CALIFORNIA, COUNTY OF

I am employed in the county of _____, State of California.
I am over the age of 18 and not a party to the within action; my business address is: _____

On, _____ I served the foregoing document described as _____

on _____ in this action

by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list:

by placing the original a true copy thereof enclosed in sealed envelopes addressed as follows:

BY MAIL

*I deposited such envelope in the mail at _____, California.
The envelope was mailed with postage thereon fully prepaid.

As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at _____ California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on _____, at _____, California.

**(BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee.

Executed on _____, at _____, California.

(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Type or Print Name

Signature

*BY MAIL SIGNATURE MUST BE OF PERSON DEPOSITING ENVELOPE IN
MAIL SLOT, BOX, OR BAG

**FOR PERSONAL SERVICE SIGNATURE MUST BE THAT OF MESSENGER

EXHIBIT “B”

1 HECTOR IBARRA
2 11309 Driftwood Drive
3 Fontana, CA. 92337
4 (909) 205-7188

5 DEFENDANT IN PRO PER

FILED - Fontana Division
SAN BERNARDINO COUNTY
SUPERIOR COURT

6 JUL 25 2012
7

By Allison K. Lepora Deputy

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF SAN BERNARDINO, FONTANA DISTRICT

10 LOUDEN, LLC

CASE NO.: UDFS 1201076

11 Plaintiff,

12 vs.

13 VICTOR MARQUEZ; CONSUELO
14 IBARRA; HECTOR A. IBARRA,
15 DOES 1 TO 5

DEFENDANT HECTOR IBARRA'S
FIRST AMENDED DEMURRER TO PLAINTIFF
LOUDEN, LLC'S FIRST AMENDED
COMPLAINT FOR UNLAWFUL DETAINER

16 [CCP SEC. 1161a]

17 Date: 8/17/2012

Time: 1:15 p.m.

Dept.: F9

19 TO PLAINTIFFS AND THEIR ATTORNEYS OF RECORD, LAW OFFICE OF STEVEN
20 D. SILVERSTEIN, STEVEN D. SILVERSTEIN, ESQ.:

21 PLEASE TAKE NOTICE THAT on August 17, 2012, at 1:15 p.m., in Department 9 in the
22 above -entitled Court at 17780 Arrow Highway, Fontana, CA. 92335, the Defendant HECTOR
23 IBARRA will and hereby does demurrer to Plaintiffs' First Amended Complaint for Unlawful
24 Detainer pursuant to Code of Civil Procedure § 430.10 on file on the ground that the pleading fails to
25 state a cause of action and, that it is so ambiguous and unintelligible as to be "uncertain", with respect
26 to this answering Tenant Defendant, within the meaning of Code of Civil Procedure §430.10(f).

1 This Demurrer is based upon this Notice, the attached Memorandum of Points and
2 Authorities, on such matters as the Court must or may judicially notice, on the papers and pleadings
3 on file in this action, and on such arguments as may be advanced at the hearing on this matter.
4

5 Dated: July 24, 2012
6

7 BY:
8

9 HECTOR IBARRA
10

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1

INTRODUCTION – STATEMENT OF FACTS

Plaintiff alleges in their complaint that they are owners of said land by way of a sale to Plaintiffs at a Trustee's Deed Upon Sale, non-judicial foreclosure sale on or about 4-26-12. Further stating that said Trustee's Sale was held in accordance with California Civil Code §2924 et. seq. The named defendant is Victor Marquez, the alleged former owner of the premises. [Complaint, Paragraph 4, Page 2]. Defendant has resided in this property since 5/10/2002, during this time, no Victor Marquez has resided at the residence. Defendant did not sign a lease agreement with a Victor Marquez. Defendant Hector A. Ibarra signed a lease agreement with Miguel Ibarra.

Defendant is not the owner of the real property located at 11309 Driftwood Drive, Fontana, California 92337. Defendant along with his wife, Consuelo Ibarra, 3 children and his mother-in-law are tenants of said property and had no knowledge of the sale of the rental property until he was informed on or about June 13, 2012 that allegedly the property had been foreclosed.

Plaintiffs have addressed the Defendant of the complaint only as VICTOR MARQUEZ and DOES 1 TO 5. Defendant Hector A. Ibarra leased the property from the titled owner, Miguel Ibarra, on May 10, 2002. A copy of the lease agreement is attached as **Exhibit “A”** to the Defendant’s Demurrer filed with this court on June 20, 2012. This Defendant request that the Court take Judicial Notice of that filing.

Defendant is in possession of the premises located at 11309 Driftwood Drive, Fontana, CA. 92337 and has a valid lease agreement with the owners. Defendant has paid the rent timely and the lease agreement extends through May 10, 2014.

11

11

DEMURRER IS PROPER IN THIS CASE.

Code of Civil Procedure §430.10 provide:

The party against whom a complaint or cross-complaint has been filed may object by demurrer ... on any of the following grounds:

(f) The pleading is uncertain. As used in this subdivision, "uncertain" includes ambiguous and unintelligible.

In the instant case, the Notice says all those in possession. Defendant is in possession of said property. As a tenant, Defendant is entitled to stay at the property until the end of the lease agreement. This Defendant was not aware that the property was in foreclosure. As such, Plaintiffs' complaint against this tenant is ambiguous and unintelligible as to be uncertain.

三

**NOTICE REQUIREMENTS IN UNLAWFUL DETAINERS
ARE STRICTLY CONSTRUED. THERE IS NO CAUSE
OF ACTION FOR UNLAWFUL DETAINER WITHOUT
PROPER NOTICE.**

The rule of liberal construction of pleadings provided by CCP §452 is inapplicable in unlawful detainer actions. Because unlawful detainer is an action seeking forfeiture and is a summary proceeding in which the Defendant's normal procedural rights are limited, the courts strictly construe the statutory procedures that regulate unlawful detainees and require strict compliance with all statutory notice requirements. California Civil Code §1442, See also *Kwok v. Bergren* (1982) 130 Cal. App.3d 596, 599; *Briggs v. Electronic Memories & Magnetic* (1975) 53 Cal. App.3d 900, 905; *Liebovich v. Shahrokhkany* (1997) 56 Cal.App.4th 511, 513. Proper service of a valid notice is a prerequisite to an action in unlawful detainer. CCP §1161. See also *Kwok* at 599.

1 There is no cause of action for unlawful detainer if statutory notice procedures are not strictly
 2 complied with. *Kwok* at 599.

3 Given this Notice's uncertainties, - no notice – to this tenant, Plaintiffs fail to meet the
 4 applicable notice and pleading requirements, and this Demurrer must be sustained.
 5

6 Under the law, notice requirements are strictly construed. Here, the Defendant *never*
 7 received notice of the plaintiff's *First Amended Complaint For Unlawful Detainer* until receipt of it
 8 in the United States Mail – postmarked July 12, 2012, and received at Defendant's residence on or
 9 about July 16, 2012. Also received was a Notice of Ruling of a hearing held on July 9, 2012 at 1:15
 10 P.M. in Department F9. Attached hereto as **Exhibit "1"** is a true and correct copy of the Notice of
 11 Ruling, and made a part herein.
 12

13 Defendant had a set court date for July 20, 2012, in Department F9, and therefore went to the
 14 court on that date. Defendant did not receive a change in the court date, and Defendant did not
 15 receive a notice of ruling until on or about July 16, 2012. Therefore Defendant had no knowledge of
 16 a different court date being set earlier than July 20, 2012.
 17

18 The Plaintiff attached to the Notice of Ruling, a Proof of Service By Mail, declaring that it
 19 had been mailed from their office on July 10, 2012, from the City of Tustin, California. The
 20 envelope addressed to defendant was post-marked July 12, 2012. Attached hereto as **Exhibit "2"** is a
 21 true and correct copy of the Envelope and made a part herein.
 22

23 When Defendant went to Department F9 of the above referenced court on July 20, 2012, he
 24 was informed that his case was not on calendar and was instructed to see the Court Clerk. Defendant
 25 went to the Court Clerk and was informed that they could not give him legal advice, but that the
 26 matter was heard on July 9, 2012 at 1:15 P.M. in Department F9. This was the first time that
 27 Defendant had heard of this new date. The Court Clerk gave Defendant a print out of the Register of
 28

1 Actions of the Case Number UDFS1201076 and showed Defendant that the hearing had been already
 2 held. Attached hereto as **Exhibit “3”** is a true and correct copy of the Register of Actions, dated July
 3 20, 2012, and made a part herein.
 4

5 However, during the hearing, as stated in the Notice of Ruling which was also showed to
 6 Defendant, the Court ordered Plaintiff to file an Amended Complaint to correct the insufficient
 7 complaint no later than July 16, 2012. The notice further stated that Defendant’s Demurrer was
 8 sustained with leave to amend. Based on the Notice of ruling, Plaintiff was to amend the complaint
 9 because that it was insufficient (“*defective*”), and re-serve the Defendant with the first amended
 10 complaint. Defendant was never personally served with the Plaintiff’s first amended complaint.
 11 Defendant received the First Amended Complaint via United States Mail as referenced in **Exhibit**
 12 **“I”** above.
 13

14 IV. LEGAL ARGUMENT

15 The party against whom a complaint, cross-complaint, or an amended complaint has been
 16 filed may object by demurrer on the ground that the pleading fails to state facts sufficient to constitute
 17 a cause of action. Code of Civil Procedure, section 430.10(e).
 18

19 Facts appearing in exhibits attached to a complaint will also be accepted as true and will be
 20 given precedence over any contradictory allegations in the pleading. Banis Restaurant Design, Inc. v.
 21 Serrano (2005) 134 Cal. App. 4th 1035.

22 Plaintiff was made aware that the Defendant was a bona fide tenant in Defendant’s Demurrer
 23 and Pre-Judgment Claim of Right to Possession filed on June 20, 2012, and mailed to Plaintiff on this
 24 same date. When Plaintiff, without notice to defendants filed an Ex parte hearing re: TO ADVANCE
 25 DEFENDANT’S DEMURRER, and thereafter obtained an earlier date for Defendant’s Demurrer
 26 without Defendant’s knowledge on July 9, 2012, the Court ordered Plaintiff to file a First Amended
 27
 28

1 Complaint to correct the insufficient complaint, i.e., complaint did not contain Defendant's names, by
 2 July 16, 2012.

3 Plaintiff filed an Amended Summons and Amended Complaint on July 12, 2012. Plaintiff in
 4 its ***haste*** attached to the complaint as Exhibit 2 "THREE DAY NOTICE TO QUIT PREMISES"
 5 [Code of Civil Procedure Section 1161a (b) (3)]. Plaintiffs were aware at the time of the Amended
 6 Complaint that Defendants were bona fide tenants in possession of the property within the meaning
 7 of the Protecting Tenants at Foreclosure Act of 2009, and that the three day notice did not apply to
 8 the Defendants. Plaintiff are still in violation of the Protecting Tenants at Foreclosure Act of 2009, in
 9 that Plaintiff have not respected the terms of the act. Defendants submitted in their Demurrer a lease
 10 agreement. Defendant request that the Court take Judicial Notice of the Demurrer filed by this
 11 Defendant on June 20, 2012. The Defendant has a legal right to remain on the property until the
 12 termination of the lease agreement which is May 10, 2014. Defendant will pay to Plaintiff a fair and
 13 monthly lease payment until the termination of the lease agreement. The fair monthly rental amount
 14 must be determined by a third party real estate professional to be selected by the Court.
 15

16 The named defendants in Plaintiff's First Amended Complaint are not the same named
 17 Defendants on the THREE DAY NOTICE TO WUIT PREMISES, the only name the Plaintiff puts
 18 on the notice is a "Victor Marquez", which does not reside in the property, nor does this Defendant
 19 know of a "Victor Marquez". Therefore, there is no perquisite support for the complaint against this
 20 Defendant. The First Amended Complaint mailed to Defendant was not conformed by the Court, nor
 21 was it signed by the Clerk of the Court. A true and correct copy of the First Amended Summons and
 22 Complaint is attached hereto as **Exhibit "4"** and made a part herein.

23 The "DECLARATION OF SERVICE OF NOTICE", Exhibit 2, does not name the Defendant.
 24 The Plaintiff had notice that this Defendant was a tenant with a bona fide lease, yet in Plaintiff First
 25

1 Amended Complaint, at Exhibit 2, Plaintiff failed to amend the Declaration of Notice to include this
 2 Defendant. Defendant was never served personally with the First Amended Complaint. The
 3 Declaration is insufficient and fails to state facts against this Defendant constituting a cause of action
 4 for Unlawful Detainer.

5 The Verification attached to Plaintiff's First Amended Complaint is incomplete and therefore
 6 insufficient and incorrect. The verifying party, allegedly Steven D. Silverstein, referenced that he is
 7 verifying the "Unlawful Detainer Summons And Complaint", not the FIRST AMENDED
 8 COMPLAINT FOR UNLAWFUL DETAINER. Secondly, the month and day that the verification
 9 was signed is left out from the verification. Finally on this same Verification there is a Proof of
 10 Service, which is left totally blank, no county indicated, no business address indicated, no name of
 11 document stated, and no date of service indicated.

12 The complaint in its entirety is defective, insufficient and incorrect. The complaint is
 13 unintelligible.

14 Defendant received Plaintiff's First Amended Complaint on July 16, 2012. If personally
 15 served, the Defendant must answer the first amended complaint within 5 days after personal service.
 16 The Defendant was not personally served and received the First Amended Complaint by regular U.S.
 17 Mail. Therefore, Defendant must answer the First Amended Complaint within 10 days after mailing.
 18 Further, the Proof of Service on the Plaintiff's First Amended Complaint was incomplete, and
 19 negligently prepared. The verification does not state the exact date in which the person verifying the
 20 First Amended Complaint signed the verification. Secondly, no one signed the Proof of Service, nor
 21 was it dated. As such, Defendant is responding based upon the date of receipt by regular U.S. Mail,
 22 which was July 16, 2012. Attached hereto as **Exhibit "5"** is a true and correct copy of the Proof of
 23 Service and made a part herein.

1 V.

2 **TITLE VII – PROTECTING TENANTS AT FORECLOSURE ACT OF 2009**

3 Even though Plaintiff amended the complaint to attempt to conform to the Protecting Tenants
 4 At Foreclosure Act of 2009, Plaintiff is not complying with the Federal Law.
 5

6 ***Federal laws provide much more rights to a tenant with a lease agreement.*** The Protecting
 7 Tenants at Foreclosure Act of 2009, Section 702, provides that if a tenant is renting under a lease
 8 entered into before the notice of foreclosure was communicated to the tenant, the tenant may remain
 9 in the property until the lease ends, *unless* the owner sells the property to a purchaser who will
 10 ***occupy the property as his primary residence.*** This law implies that there is a federal question at
 11 issue, in that this law supersedes state law and provides a tenant additional protection. The Protecting
 12 Tenants at Foreclosure Act of 2009 raises a federal question. However, the mere presence of a
 13 federal issue by itself does not confer federal-question jurisdiction, therefore this Court must review
 14 the Act in its entirety and determine how it should apply to tenants with a lease agreement after
 15 foreclosure of a rental property.
 16

17 Here, the Plaintiff is LOUDEN, LLC, it is unlikely that they will relocate their business to
 18 11309 Driftwood Drive, Fontana, CA. 92337. Therefore, Defendant has a federal right to remain at
 19 the property until the expiration of his lease agreement.
 20

21 Federal laws prohibit LOUDEN, LLC from taking any action to evict the Defendant, Plaintiff
 22 must respect the lease agreement and therefore becomes the landlord to Defendant. Based upon these
 23 laws the Demurrer should be granted.
 24

25 ///
 26
 27
 28

1
CONCLUSION

2
Defendant HECTOR IBARRA respectfully request that the court sustain the demurrer without
3 leave to amend due to the aforementioned laws as referenced in this demurrer
4

5 DATED: July 24, 2012

6 Respectfully submitted,
7

8 BY:

9 HECTOR IBARRA
10 Defendant Tenant IN PRO PER
11
12
13
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17
18
19
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21
22
23
24
25
26
27
28

EXHIBIT "1"

1 STEVEN D. SILVERSTEIN
2 Attorney at Law
3 14351 Redhill Ave., Suite G
Tustin, Ca. 92780
3 714-832-3651

4
5 Attorney for Plaintiff
6

7 SUPERIOR COURT OF CALIFORNIA
8 COUNTY OF SAN BERNARDINO, FONTANA DISTRICT

9 LOUDEN) Case No. UDFS 1201076
10)
11 Plaintiff,) NOTICE OF RULING
12)
13 v.)
14 MARQUEZ; DOES 1 TO 5)
15 Defendants,)

16 PLEASE TAKE NOTICE that Defendant's Demurrer came regularly for
17 hearing on JULY 9, 2012 at 1:15 PM in Department F-9 of the above
18 entitled Court.

19 The Judge having heard testimony and considered evidence hereby
20 rules as follows:

21 1. Defendant's Demurrer is sustained with leave to amend.
22 2. Plaintiff has until JULY 16, 2012 to file First Amended
23 Complaint to correct the insufficient complaint.

24
25
26 Dated: JULY 10, 2012

27 STEVEN D. SILVERSTEIN
28 Attorney for Plaintiff

PROOF OF SERVICE BY MAIL

STATE OF CALIFORNIA)

) ss.

COUNTY OF ORANGE)

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 14351 Redhill Ave., Suite G, Tustin, Ca. 92780.

On JULY 10, 2012 , I served the foregoing documents described as:

NOTICE OF RULING

on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

VICTOR MARQUEZ
CONSUELO IBARRA
HECTOR A. IBARRA
11309 DRIFTWOOD DR.
FONTANA, CA 92337

(X) BY MAIL - by placing a true and correct copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States mail. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Said correspondence is deposited with the U. S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal collection date or postage meter date is more than 1 day after date of deposit for mailing in affidavit.

[] BY HAND DELIVERY - I delivered a true and correct copy thereof by hand to the office of the addressee.

[] BY FACSIMILE TRANSMISSION - by causing a true facsimile thereof to be electronically transmitted to the parties, by using their facsimile numbers indicated below.

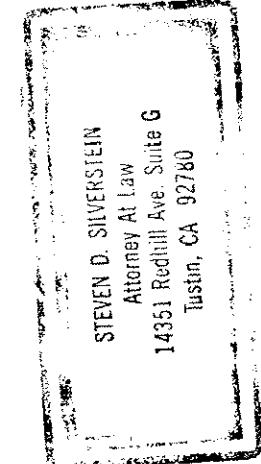
[X] STATE: I declare under penalty of perjury under the laws of the State of California, that the foregoing is true and correct.

[] FEDERAL: I declare that I am employed in the office of a member of the bar of this court at whose direction service was made.

Executed on JULY 10, 2012 at Tustin, California


HOWARD GOTTESMAN

EXHIBIT "2"



四庫全書

EXHIBIT "3"

Superior Court of Calif., County of San Bernardino
Register of Actions

Page:

1

7/20/12

Case Number : UDFS1201076
 Case Name : LOUDEN VS MARQUEZ
 Case Type : UNLAWFUL DETAINER Case Status : Active
 Category : Unlawful Detainer <\$10,000 (Resident) Limited
 Jurisdiction: FONTANA

Complaint Type : 1st Amended UD Complaint <\$10, Filed : 6/12/12
 Amended : 7/12/12

PLAINTIFF(s):

LOUDEN LLC

ATTORNEY:

STEVEN D SILVERSTEIN

DEFENDANT(s):

VICTOR MARQUEZ

Default

HECTOR A IBARRA

ATTORNEY:

Pro/Per

Not Served

CONSUELO IBARRA

ATTORNEY:

Pro/Per

Not Served

and DOES 1 through 5

Action Date	Description	Disposition
6/12/12	Unlawful Detainer Complaint <\$10,000 Filed. Summons Issued and Filed. Case assigned for all purposes to Department F9 Civil Case Cover Sheet Filed.	-
6/19/12	Proof of Service of Summons and Comp filed on VICTOR MARQUEZ; Party served on 06/12/12 \$85.00 Request to enter Default against VICTOR MARQUEZ filed. Default entered on UD Complaint <\$10,000 of LOUDEN LLC as to VICTOR MARQUEZ.	-
6/20/12	Filing Fee paid by LOUDEN LLC for FAX FILING Pre-Judgment Claim of Right to Possession Filed by HECTOR A IBARRA on 06/20/12 adding party as a Defendant.	-

Superior Court of Calif., County of San Bernardino
Register of Actions

Page:

2

7/20/12

Case Number : UDFS1201076
 Case Name : LOUDEN VS MARQUEZ
 Case Type : UNLAWFUL DETAINER Case Status : Active
 Category : Unlawful Detainer <\$10,000 (Resident) Limited
 Jurisdiction: FONTANA

Request for Waiver of Court Fees & Costs Filed by
 HECTOR A IBARRA.

Order on Court Fee Waiver GRANTED filed.

Request for Waiver of Court Fees and Costs filed GRANTED
 by HECTOR A IBARRA is GRANTED

Filing Fee Waived on HECTOR A IBARRA for FIRST
 PAPER in the amount of \$240.00.

Demurrer Filed by HECTOR A IBARRA; represented by
 PRO/PER

Pre-Judgment Claim of Right to Possession Filed
 by CONSUELO IBARRA on 06/20/12 adding party as a
 Defendant.

Demurrer Filed by CONSUELO IBARRA; represented by
 PRO/PER

Request for Waiver of Court Fees & Costs Filed by
 CONSUELO IBARRA.

Order on Court Fee Waiver GRANTED filed.

Request for Waiver of Court Fees and Costs filed GRANTED
 by CONSUELO IBARRA is GRANTED

Filing Fee Waived on CONSUELO IBARRA for FIRST
 PAPER in the amount of \$240.00.

Points & Authorities filed by LOUDEN LLC.

Declaration re: STEVEN D SILVERSTEIN filed by
 LOUDEN LLC

Filing Fee paid by LOUDEN LLC for FAX FILING

Ex parte hearing re: TO ADVANCE DEFENDANT'S
 DEMURRER

Dept.: F9A Time : 1:15
 LESLIE E MURAD II , COMMISSIONER
 Clerk: DIVA DUKE

7/06/12

7/09/12

Superior Co. of Calif., County of San Bernardino
Register of Actions

Page:

3

7/20/12

Case Number : UDFS1201076
 Case Name : LOUDEN VS MARQUEZ
 Case Type : UNLAWFUL DETAINER Case Status : Active
 Category : Unlawful Detainer <\$10,000 (Resident) Limited
 Jurisdiction: FONTANA

Bailiff: M.Rodes

APPEARANCES:
 Special appearance by Ratha Kea for Plaintiff.
 Parties Not Present: HECTOR A IBARRA, CONSUELO
 IBARRA

PROCEEDINGS:
 Predisposition Hearing Held
 Stipulation and Order re: Appointment of Judge
 Pro Tem filed.
 1:46

Motion
 LOUDEN LLC's Motion to advance Demurrer hearing
 is heard.
 LOUDEN LLC's Motion to advance Demurrer hearing
 is Granted.

Motion
 Demurrer sustained as to UD Complaint <\$10,000 of
 LOUDEN LLC, with 7 days leave to amend.
 Complaint not signed.
 Complaint to be amended by 07/16/12.
 Action - Complete
 === MINUTE ORDER END ===

7/10/12 Vacate L&M hearing scheduled for 07/20/12 at
 1:15 in Department F9.

7/12/12 Amended Summons Issued/Filed.
 Amended Complaint Filed -- Amending 1st Amended
 UD Complaint <\$10,000 of LOUDEN LLC

NOTICE OF RULING received.

Notice OF RULING filed by LOUDEN LLC.

7/19/12 DEFAULT received.

7/20/12 Motion Re: DEMURRER * Filed by Defendant HECTOR

VACATED

A IBARRA
 Dept.: F9 Time : 1:15

7/20/12

Superior Co. of Calif, County of San Bernardino
Register of Actions

Page:

4

Case Number : UDFS1201076
Case Name :: LOUDEN VS MARQUEZ
Case Type :: UNLAWFUL DETAINER Case Status : Active
Category :: Unlawful Detainer <\$10,000 (Resident) Limited
Jurisdiction: FONTANA VACATED
Motion Re: DEMURRER * Filed by Defendant
CONSUELO IBARRA
Dept.: F9 Time : 1:15
8/09/12 Status Conference -- Unlawful Detainer
Dept.: CCF Time : 8:00
***** END OF CASE PRINT *****

EXHIBIT "4"

**SUMMONS - FIRST AMENDED
(CITACION JUDICIAL)
UNLAWFUL DETAINER—EVICTION
(RETENCION ILICITA DE UN INMUEBLE—DESALOJO)**

NOTICE TO DEFENDANT:

(AVISO AL DEMANDADO):
VICTOR MARQUEZ; CONSUELO IBARRA; HECTOR A. IBARRA;
DOES 1 TO 5

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

LOUDEN, LLC

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

You have 5 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. (To calculate the five days, count Saturday and Sunday, but do not count other court holidays. If the last day falls on a Saturday, Sunday, or a court holiday then you have the next court day to file a written response.) A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

Tiene 5 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. (Para calcular los cinco días, cuente los sábados y los domingos pero no los otros días feriados de la corte. Si el último día cae en sábado o domingo, o en un día en que la corte esté cerrada, tiene hasta el próximo día de corte para presentar una respuesta por escrito). Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

CASE NUMBER:
(Número del caso): UDFS 1201076

- The name and address of the court is:
(El nombre y dirección de la corte es):
**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
17780 ARROW HIGHWAY
FONTANA, CA 92335
FONTANA DISTRICT**

- The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
**STEVEN D. SILVERSTEIN #86466
ATTORNEY AT LAW
14351 REDHILL AVE., SUITE G
TUSTIN, CA 92780**

714-832-3651

- (Must be answered in all cases) An unlawful detainer assistant (Bus. & Prof. Code, §§ 6400–6415) did not did for compensation give advice or assistance with this form. (If plaintiff has received any help or advice for pay from an unlawful detainer assistant, complete item 6 on the next page.)

Clerk, by _____, Deputy
(Secretario) (Adjunto)

Date: **JULY 12 2012**
(Fecha)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

4. NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- as an occupant
- on behalf of (specify):

under: CCP 416.10 (corporation)
 CCP 416.20 (defunct corporation)
 CCP 416.40 (association or partnership)
 CCP 415.46 (occupant)

CCP 416.60 (minor)
 CCP 416.70 (conservatee)
 CCP 416.90 (authorized person)
 other (specify):

- by personal delivery on (date):

SUMMONS—UNLAWFUL DETAINER—EVICTION

Legal
Solutions
Plus

Code of Civil Procedure §§ 412.20, 415.456, 1167

1 STEVEN D. SILVERSTEIN
2 ATTORNEY AT LAW
3 14351 Redhill Ave., Suite G
4 Tustin, CA 92780
5 714-832-3651
6 BAR NO: 86466
7 Attorney for Plaintiff

8
9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SAN BERNARDINO, FONTANA DISTRICT

12 LOUDEN, LLC) CASE NO. UDFS 1201076
13) FIRST AMENDED
14) COMPLAINT FOR
15) UNLAWFUL DETAINER
16) [CCP SEC.1161a]
17)
18) Plaintiff,
19)
20) VICTOR MARQUEZ;
21) CONSUELO IBARRA;
22) HECTOR A. IBARRA;
23) DOES 1 TO 5
24) Defendants,
25)
26)
27)
28)

Plaintiffs, LOUDEN, LLC:

1. Plaintiffs, LOUDEN, LLC is a limited liability company.

2. (hereinafter "LOUDEN").

3. Defendant, VICTOR MARQUEZ; CONSUELO IBARRA; HECTOR A. IBARRA;

4. (collectively hereinafter "MARQUEZ") is, and at all times relevant
5. herein is, an adult residing within the jurisdiction of the Court.

6. The true names and capacities of the Defendant sued herein as
7. DOES 1 TO 5, are unknown to Plaintiff, who thereafter sues this

8. Defendant by this fictitious name. Plaintiff will amend this
9. Complaint to include the true names and capacities of this Defendant
10. when the same have been ascertained. Plaintiff is informed and
11. believes, and thereon alleges, that the fictitiously named Defendant

1 claims a right under the named Defendant to possession of the premises
2 against Plaintiff.

3 4. Defendant, MARQUEZ, herein, is the former owner of the
4 premises.

5 5. On or about 4-26-12, the residential real property located
6 11309 DRIFTWOOD DR., FONTANA, SAN BERNARDINO COUNTY, CA 92337 and
7 situated in the above-captioned judicial district (hereinafter
8 "PREMISES"), was sold by way of a non-judicial foreclosure sale
9 wherein which title of the PREMISES became vested with LOUDEN.

10 6. Title to the PREMISES was duly acquired by reason of a
11 trustee's non-judicial foreclosure sale in accordance with the terms
12 of the deed of trust executed by Defendant, MARQUEZ, herein, or a
13 person under whom Defendant claimed possession of the PREMISES. Said
14 trustee's sale was duly conducted in accordance with the law after
15 notice properly given, and more than three months thereafter, and
16 having given such notice of the terms and place of said sale in
17 accordance with the provisions of Section 2924 of the California Civil
18 Code, said trustee did sell the PREMISES and executed and delivered to
19 LOUDEN a deed thereto which contains the recital of compliance with
20 law as set forth in Civil Code Section 2924. By reason thereof, title
21 to the PREMISES has been duly perfected by LOUDEN.

22 7. On or about 4-26-12, Plaintiff caused to be served upon the
23 defendant a Three Day Notice to Quit and deliver possession of the
24 PREMISES (hereinafter "NOTICE") stating that Plaintiff had purchased
25 the PREMISES and that his title had been duly perfected and demanding
26 the Defendant, MARQUEZ, quit the premises within three days after
27 service of the NOTICE. Said NOTICE was served by posting a copy in a
28 conspicuous place of the PREMISES therein described, there being no

1 person of suitable age or discretion to be found at the PREMISES, and
2 by depositing said copies in the United States Mail, in an envelope
3 with postage fully prepaid, addressed to the Defendant, MARQUEZ, at
4 the place where the PREMISES is located. A true and correct copy of
5 the NOTICE is attached hereto as Exhibit 2 and incorporated herein by
6 reference.

7 8. More than three days have elapsed since the service of said
8 NOTICE upon the Defendant, MARQUEZ and Defendant has failed and
9 refused to deliver up possession and continues in possession of the
10 PREMISES without Plaintiff's permission or consent.

11 9. The reasonable rental value of the PREMISES is \$65.63 per
12 day, and the damages to Plaintiff proximately caused by Defendant, AL-
13 MARQUEZ'S unlawful detention have accrued at that rate so long as
14 Defendant remains in possession of the PREMISES.

15 10. Plaintiff will remit all sums in excess of the jurisdiction
16 of this Court.

17 WHEREFORE, Plaintiff, prays judgment as follows:

18 1. For restitution and possession of the PREMISES;
19 2. For \$65.63 per day from 5-1-12 until entry of judgment;
20 3. For Costs of suit incurred herein; and
21 4. For such other and further relief as the Court may deem
22 proper.

23 Dated: 7-12-12

24 STEVEN D. SILVERSTEIN
25 Attorney for Plaintiff

26
27
28

W A Y P O I N T

H O M E S

THREE DAY NOTICE TO QUIT PREMISES
[Code of Civil Procedure Section 1161a (b)(3)]

TO: THE FORMER OWNER OR TRUSTOR; and ALL OTHER PERSONS WHO ARE IN
POSSESSION OF AND OCCUPY THE REAL PROPERTY LOCATED AT:

Victor Marquez
11349 Driftwood Dr. Foothills CA 92337

WHO ARE NOT RESIDENTIAL TENANTS OR SUBTENANTS OCCUPYING THE PROPERTY
PURSUANT TO A RENTAL AGREEMENT OR LEASE

NOTICE IS HEREBY GIVEN that your right to occupy the real property at the above address has been terminated as a result of the purchase of said property by Louden, LLC ("Owner") by Trustee's Deed pursuant to a power of sale contained in a Trust Deed, which appeared of record against said property. Owner, or its principal, has duly perfected title to said property.

NOTICE IS FURTHER GIVEN that if you are a former trustor or owner of the above property, or if you are occupying or in possession of the property without a written or oral rental agreement or lease, at the expiration of THREE (3) DAYS, after service of this notice upon you, you are required to quit and surrender possession of the premises described above by delivering the keys to the premises to Owner's agent, Waypoint Homes, Inc., c/o Joseph Maehler during normal business hours at the following address: 620 Newport Center Drive, Suite 800, Newport Beach, CA 92660, (949) 629-9771. In the event that you do not surrender possession of the property to Owner within the three day period, legal proceedings will be commenced against you to recover possession of said property, court costs, any available damages and the reasonable value of the property for each day of your continued occupancy following the expiration of the Notice period.

NOTICE IS FURTHER GIVEN that if you are a bona fide tenant or subtenant in possession of the above property within the meaning of the Protecting Tenants at Foreclosure Act of 2009, then this Three Day Notice does not apply to you. If you are a bona fide tenant or subtenant of the property and if you are not the child, spouse, or parent of the former owner, then you will be subject to the NINETY DAY NOTICE served concurrently with this notice. If you are a bona fide tenant of the property, and you are not the child, spouse, or parent of the former owner, please notify Owner immediately and send proof of your tenancy to the above address and phone number.

NOTICE IS FURTHER GIVEN that if you do not qualify as a "bona fide" tenant because you are the child, spouse, or parent of the former owner, but are still a tenant or subtenant in possession of the above property within the meaning of California Code of Civil Procedure Section 1161a(c) or 1161b, then this Three Day Notice does not apply to you. If you are a tenant or subtenant of the property and if you

620 Newport Center Drive, 8th Floor
Newport Beach, CA 92660
direct: 949.629.9770
fax: 510.373.6333

E. J.

W A Y P O I N T

H O M E S

are sharing occupancy of the property with the former owner, then you will be subject to the THIRTY DAY NOTICE served concurrently with this notice. If you are a tenant or subtenant of the property, and if you are not sharing occupancy of the property with the former owner, then you will be subject to the SIXTY DAY NOTICE served concurrently with this notice.

NOTICE IS FURTHER GIVEN that following the expiration of THREE (3) DAYS after service of this notice, Owner will commence eviction proceedings against the occupants of the property and will serve, with the summons and eviction complaint, a form entitled Prejudgment Claim of Right to Possession. If you are a tenant or subtenant subject to either the THIRTY DAY NOTICE, SIXTY DAY NOTICE, or the NINETY DAY NOTICE that were served concurrently with this notice, then in order to preserve the additional notice period, you will be required to complete the form and submit it to the Superior Court in which the proceedings were commenced.

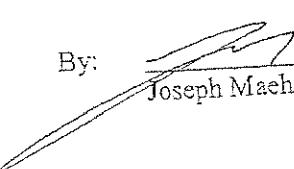
If you do not complete the Prejudgment Claim of Right to Possession form and submit the form to the appropriate Superior Court within ten days after its service upon you, then neither the Court nor the property's new owner will know that you may be entitled to the additional notice period under either the THIRTY DAY NOTICE, SIXTY DAY NOTICE, or the NINETY DAY NOTICE that were served concurrently with this notice, and your occupancy will instead be governed by this THREE DAY NOTICE.

PENAL CODE SECTION 594 STATES: EVERY PERSON WHO MALICIOUSLY DEFACES WITH PAINT OR ANY OTHER LIQUID, DAMAGES, OR DESTROYS ANY REAL OR PERSONAL PROPERTY NOT HIS OR HER OWN WILL BE PUNISHED BY FINE OR IMPRISONMENT OR BOTH.

Dated: 4/26/12

WAYPOINT HOMES, Inc.

By:


Joseph Maehler, Regional Director

620 Newport Center Drive, 8th Floor
Newport Beach, CA 92660
direct: 949.629.9770
fax: 510.373.6333



DECLARATION OF SERVICE OF NOTICE

Name of Renter(s): Victor Marquez

Name of person served
(if other than renter): _____

Place of service: 11309 Driftwood Dr, Fontana CA 92337

Date and Time of service: 4/26/12 4:15 PM

I declare that:

I served a copy of the 3 day Notice to Quit Premises
named above.

on the renter(s)

Delivering it personally to one or more of the renter(s) named above.

(IF UNABLE TO SERVE THE RENTER(S) PERSONALLY AFTER MAKING A DILIGENT
EFFORT TO DO SO, INCLUDING AT LEAST THREE (3) ATTEMPTS AT DIFFERENT
TIMES OR ON DIFFERENT DAYS AT THE PREMISES OR, IF KNOWN, AT THE
RENTER(S) PLACE OF BUSINESS.)

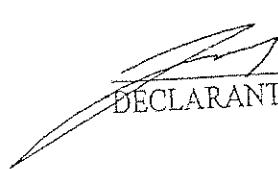
Leaving a copy with the person named above, who is of suitable age and discretion, at the
renter(s) premises/business and by sending a copy in a sealed envelope, by first class mail,
postage prepaid, addressed to the renter(s) at the premises.

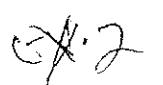
Affixing a copy to the front door of the premises and by sending a copy in a sealed
envelope by first class mail, postage prepaid, addressed to the renter(s) at the premises, in as
much as the renter(s) actual place of residence or business cannot be ascertained and/or a person
of suitable age and discretion cannot be found at the renter(s) premises or business.

I am personally aware of these facts and I am competent to testify thereto as a witness. I
declare, under penalty of perjury, that the foregoing is true and correct and that this declaration
was executed on the following date and the following place:

DATE: 5/8/12

PLACE: Fontana, California


DECLARANT


EX-2

Recorded In Official Records, County of San Bernardino

5/11/2012

WHEN RECORDED MAIL TO:

12:38 PM

MP

LOUDEN, LLC.
5440 TRABUCCO RD. SUITE H200
IRVINE CA 92620



DENNIS DRAEGER
ASSESSOR - RECORDER - CLERK

P Counter

Doc#: 2012-0183849

Titles: 1 Pages: 2



Fees	18.00
Taxes	165.00
Other	12.25
PAID	\$195.25

TRA # 010091
Trust No. 1288413-10

Space Above This Line For Recorder

MAIL TAX STATEMENT TO:

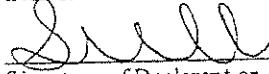
Documentary Transfer Tax \$165.00

Same as above

X Grantee was not the foreclosing beneficiary.
consideration \$150,000.00
unpaid debt \$185,945.94
non exempt amount S

 Computed on the consideration or value of
property conveyed.

 Computed on the consideration of value less
liens or encumbrances remaining at time of sale.


Signature of Declarant or Agent **Selwa Ishoo**
AP# 0236-512-22-0-000

TRUSTEE'S DEED UPON SALE

CAL-WESTERN RECONVEYANCE CORPORATION (herein called trustee)
does hereby grant and convey, but without covenant or warranty, express or implied to
LOUDEN, LLC., A NEVADA LIMITED LIABILITY COMPANY (herein called Grantee) the real property
in the county of SAN BERNARDINO, State of California described as follows:

LOT 82 OF TRACT NO 12354, IN THE CITY OF FONTANA, COUNTY OF SAN BERNARDINO,
STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 190 OF MAPS, PAGE(S)53 TO 67
INCLUSIVE RECORDS OF SAID COUNTY, EXCEPT THEREFROM ALL OIL, GAS, MINERALS
AND OTHER HYDROCARBON SUBSTANCES, LYING BELOW A DEPTH OF 500 FEET, WITHOUT
THE RIGHT OF SURFACE ENTRY, AS RESERVED IN INSTRUMENTS OF RECORD.
The street address and other common designation, if any, of the real property described above is purported to be:
11309 DRIFTWOOD DR
FONTANA CA 92337

This conveyance is made pursuant to the authority and powers vested in said Trustee, as Trustee, or Successor
Trustee, or Substituted Trustee, under that certain Deed of Trust executed by
MIGUEL ANGEL IBARRA A SINGLE MAN as Trustor, recorded November 18, 2003, as Document No.
2003-0863620, in Book XX, page XX, of Official Records in the Office of the Recorder of SAN
BERNARDINO County, California; and pursuant to the Notice of Default recorded July 06, 2010, as
Document No. 2010-0269135 in Book XX, page XX of Official Records of said County, Trustee having
complied with all applicable statutory requirements of the State of California and performed all duties required
by said Deed of Trust, including, among other things, as applicable, the mailing of copies of notices or the
publication of a copy of the notice of default or the personal delivery of the copy of the notice of default or the
posting of copies of the notice of sale or the publication of a copy thereof.

TDUSCA.DOC

Page 1 of 2

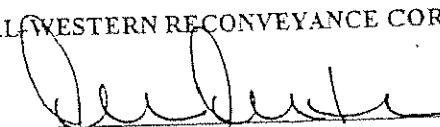
EX 2
MAIL TAX STATEMENTS AS DIRECTED ABOVE

TRA # 010091
Trust No. 1288413-10

At the place fixed in the Notice of Trustee's Sale, said Trustee did sell said property above described at public auction on April 26, 2012 to said Grantee, being the highest bidder therefore, for \$150,000.00 cash, lawful money of the United States, in satisfaction pro tanto of the indebtedness then secured by said Deed of Trust.

CAL-WESTERN RECONVEYANCE CORPORATION

Dated: April 26, 2012


Susan Smothers, A.V.P.

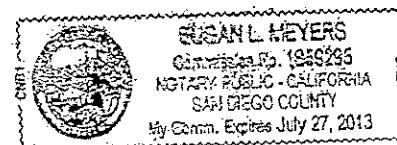
State of California)
County of San Diego)

On MAY 04 2012 before me, Susan L. Meyers, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

(Seal)

Signature 



NOTICE: EVERYONE WHO LIVES IN THIS RENTAL UNIT MAY BE EVICTED BY COURT ORDER. READ THIS FORM IF YOU LIVE HERE AND IF YOUR NAME IS NOT ON THE ATTACHED SUMMONS AND COMPLAINT.

1. If you live here and you do not complete and submit this form within 10 days of the date of service shown on this form, you will be evicted without further hearing by the court along with the persons named in the Summons and Complaint.
2. If you file this form, your claim will be determined in the eviction action against the persons named in the Summons and Complaint.
3. If you do not file this form, you will be evicted without further hearing.

CLAIMANT OR CLAIMANT'S ATTORNEY (Name and Address):

TELEPHONE NO.:

FOR COURT USE ONLY

ATTORNEY FOR (Name):

NAME OF COURT:

STREET ADDRESS:

MAILING ADDRESS:

CITY AND ZIP CODE:

BRANCH NAME:

PLAINTIFF:

DEFENDANT:

PREJUDGMENT CLAIM OF RIGHT TO POSSESSION

CASE NUMBER:

Complete this form only if ALL of these statements are true:

1. You are NOT named in the accompanying Summons and Complaint.
2. You occupied the premises on or before the date the unlawful detainer (eviction) Complaint was filed.
3. You still occupy the premises.

(To be completed by the process server)

DATE OF SERVICE:

(Date that this form is served or delivered, and posted, and mailed by the officer or process server)

I DECLARE THE FOLLOWING UNDER PENALTY OF PERJURY:

1. My name is (specify):

2. I reside at (street address, unit No., city and ZIP code):

3. The address of "the premises" subject to this claim is (address):

4. On (insert date): [REDACTED], the landlord or the landlord's authorized agent filed a complaint to recover possession of the premises. (This date is the court filing date on the accompanying Summons and Complaint.)
5. I occupied the premises on the date the complaint was filed (the date in item 4). I have continued to occupy the premises ever since.
6. I was at least 18 years of age on the date the complaint was filed (the date in item 4).
7. I claim a right to possession of the premises because I occupied the premises on the date the complaint was filed (the date in item 4).
8. I was not named in the Summons and Complaint.
9. I understand that if I make this claim of right to possession, I will be added as a defendant to the unlawful detainer (eviction) action.

10. (Filing fee) I understand that I must go to the court and pay a filing of \$ [REDACTED] or file with the court the form "Application for Waiver of Court Fees and Costs." I understand that if I don't pay the filing fee or file with the court the form for waiver of court fees within 10 days from the date of service on this form (excluding court holidays), I will not be entitled to make a claim of right to possession.

(Continued on reverse)

PREJUDGMENT CLAIM OF RIGHT TO POSSESSION

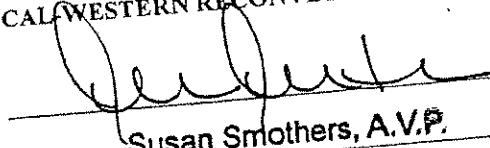
Legal

TRA # 010091
Trust No. 1288413-10

At the place fixed in the Notice of Trustee's Sale, said Trustee did sell said property above described at public auction on April 26, 2012 to said Grantee, being the highest bidder therefore, for \$150,000.00 cash, lawful money of the United States, in satisfaction pro tanto of the indebtedness then secured by said Deed of Trust.

CAL-WESTERN RECONVEYANCE CORPORATION

Dated: April 26, 2012


Susan Smothers, A.V.P.

State of California)
County of San Diego)

On MAY 04 2012

before me,

Susan L. Meyers

a Notary Public, personally appeared Susan Smothers, A.V.P., who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

(Seal)

WITNESS my hand and official seal

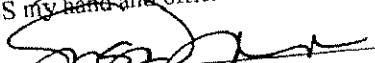
Signature 



EXHIBIT "5"

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF ORANGE

I have read the foregoing UNLAWFUL DETAINER SUMMONS AND COMPLAINT

and know its contents.

CHECK APPLICABLE PARAGRAPHS

I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am an Officer a partner a _____ of _____

a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. The matters stated in the foregoing document are true of my own knowledge, except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am one of the attorneys for PLAINTIFF.
I am a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on 1/20/12, at TUSTIN, California.
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

STEVEN D. SILVERSTEIN

Type or Print Name

Signature

PROOF OF SERVICE

1013a (3) CCP Revised 5/1/88

STATE OF CALIFORNIA, COUNTY OF

I am employed in the county of _____, State of California.
I am over the age of 18 and not a party to the within action; my business address is: _____

On, _____ I served the foregoing document described as _____
on _____ in this action

by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list:
 by placing the original a true copy thereof enclosed in sealed envelopes addressed as follows:

 BY MAIL

I deposited such envelope in the mail at _____, California.
The envelope was mailed with postage thereon fully prepaid.
 As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at _____ California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on _____, at _____, California.

**(BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee.

Executed on _____, at _____, California.

(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Type or Print Name

Signature

(BY MAIL, SIGNATURE MUST BE OF PERSON DEPOSITING ENVELOPE IN
MAIL SLOT, BOX, OR BAG)

**(FOR PERSONAL SERVICE SIGNATURE MUST BE THAT OF MESSENGER)

Legal
Solutions
Plus

Rev. 7/99

1
PROOF OF SERVICE

2 STATE OF CALIFORNIA COUNTY OF SAN BERNARDINO

3 I am resident of the County of SAN BERNARDINO. I am over the age of 18 years old and
4 not a party to the within action, my business address is 1498 N. San Antonio Ave., Upland, CA.
5
91786.

6 On July 25, 2012, I served the within on the interested parties in said action, as follows:
7

8 **DEFENDANT HECTOR IBARRA'S FIRST AMENDED DEMURRER TO PLAINTIFF
9 LOUDEN, LLC'S FIRST AMENDED COMPLAINT FOR UNLAWFUL DETAINER**

10 Steven D. Silverstein
11 Attorney At Law
12 14351 Redhill Ave., Ste. G
Tustin, CA. 92780

13 [X] BY MAIL – I am readily familiar with the collection of the mail. It is deposited with the United
14 States Postal Service on July 25, 2012 with postage thereon fully prepaid at Upland, California in the
15 ordinary course of business.

16 I declare under penalty of perjury under the laws of the United States of America that the
17 foregoing is true and correct and if sworn as a witness I can competently testify to the foregoing on
18 my own knowledge.

19
20 Executed on July 25, 2012, at Upland, California.

21 
22 L. Ghardarian

EXHIBIT “C”

Residential Lease Agreement

Lease Agreement, made between MIGUEL IBARRA (Landlord) and Hector A IBARRA
(Tenant).

CONSUELO IBARRA

For good consideration it is agreed between the parties as follows:

Landlord hereby leases and rents to Tenant the premises described as follows:

1. This Lease shall be in effect for a term of 4 years, commencing on JAN 1st, 2010 and terminating on 2014.
2. Tenant shall pay Landlord the annual rent of \$1300 during said term, in monthly payments of \$ 950, each, payable monthly in advance.
3. Tenant shall at its own expense provide the following utilities:

4. Tenant further agrees that:
 - o Upon the expiration of the lease it will return possession of the leased premises in its present condition, reasonable wear and tear, and fire casualty excepted. Tenant shall commit no waste to the leased premises.
 - o It shall not assign or sub-let or allow any other person to occupy the leased premises without Landlord's prior written consent.
 - o It shall not make any material or structural alterations to the leased premises without Landlord's prior written consent.
 - o It shall comply with all building, zoning and health codes and other applicable laws for said leased premises.
 - o It shall not conduct a business deemed extra hazardous, a nuisance or requiring an increase in fire insurance premiums. Tenant warrants the leased premises shall be used only for the following type business:
 - o In the event of any breach of the payment of rent or any other allowed charge, or other breach of this Lease, Landlord shall have full rights to terminate this Lease in accordance with state law and re-enter and claim possession of the leased premises, in addition to such other remedies available to Landlord arising from said breach.
5. This Lease shall be binding upon and inure to the benefit of the parties, their successors, assigns and personal representatives.

Additional lease terms:

Signed and sealed this 1st day of JAN, 2010

Landlord

Tenant

PROOF OF SERVICE

STATE OF CALIFORNIA COUNTY OF SAN BERNARDINO

I am resident of the County of SAN BERNARDINO. I am over the age of 18 years old and not a party to the within action, my business address is 9238 19th Street, Alta Loma, CA. 91701.

On August 22, 2012, I served the within on the interested parties in said action, as follows:

NOTICE OF REMOVAL OF CIVIL ACTION TO FEDERAL COURT – UDFS1201076

MILES, BAUER, BERGSTROM & WINTERS, LLP
Hanh T. Nguyen, Esq.,
1231 E. Dyer Road, Suite 100
Santa Ana, CA. 92705

[] VIA FACSIMILE -

BY MAIL – I am readily familiar with the collection of the mail. It is deposited with the United States Postal Service on August 22, 2012 with postage thereon fully prepaid at Alta Loma, California in the ordinary course of business.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and if sworn as a witness I can competently testify to the foregoing on my own knowledge.

Executed on August 22, 2012, at Alta Loma, California.

L. Ghardarian
L. Ghardarian

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**I (a) PLAINTIFFS** (Check box if you are representing yourself)*LOUDEN, LLC***DEFENDANTS**
*VICTOR MARQUEZ
CONSUELO IBARRA, Hecilia
A IBARRA 1-705***(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)**

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.)

1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)
 2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant.)

Citizen of This State	PTF	DEF	PTF	DEF
	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4 <input type="checkbox"/> 4
	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5 <input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6

IV. ORIGIN (Place an X in one box only.)

1 Original 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify): 6 Multi-District Litigation 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: Yes No (Check 'Yes' only if demanded in complaint.)CLASS ACTION under F.R.C.P. 23: Yes No**MONEY DEMANDED IN COMPLAINT:** \$ _____**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)**VII. NATURE OF SUIT** (Place an X in one box only.)

OTHER STATUTES	CONTRACT	TORTS	TORTS	PRISONER PETITIONS	LABOR
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> PERSONAL PROPERTY	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 710 Fair Labor Standards Act
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 520 Habeas Corpus	<input type="checkbox"/> 720 Labor/Mgmt. Relations
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 530 General	<input type="checkbox"/> 730 Reporting & Disclosure Act
<input type="checkbox"/> 450 Commerce/ICC Rates/etc.	<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 740 Railway Labor Act
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Product Liability	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 790 Other Labor Litigation
<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 555 Prison Condition FORFEITURE / PENALTY	<input type="checkbox"/> PROPERTY RIGHTS
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle Product Liability	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 810 Selective Service	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 850 Securities/Commodities/ Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 365 Personal Injury-Med Malpractice Product Liability	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> SOCIAL SECURITY
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 445 American with Disabilities - Employment	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 861 HIA (1395f)
<input type="checkbox"/> 891 Agricultural Act	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> REAL PROPERTY	<input type="checkbox"/> 446 American with Disabilities - Other	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 892 Economic Stabilization Act	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 447 Other Civil Rights	<input type="checkbox"/> 660 Occupational Safety /Health	<input type="checkbox"/> 863 DIWC/DIWW (405(g))
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 463 Habeas Corpus-Alien Detainee	<input type="checkbox"/> 448 Other	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 894 Energy Allocation Act	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 465 Other Immigration Actions			<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 245 Tort Product Liability				<input type="checkbox"/> FEDERAL TAX SUITS
<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	<input type="checkbox"/> 290 All Other Real Property				<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 950 Constitutionality of State Statutes					<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

FOR OFFICE USE ONLY: Case Number: CV12-1410

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? No Yes
 If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? No Yes
 If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

(Check all boxes that apply) A. Arise from the same or closely related transactions, happenings, or events; or
 B. Call for determination of the same or substantially related or similar questions of law and fact; or
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District: [*]	California County outside of this District; State, if other than California; or Foreign Country
<i>SAN BERNARDINO COUNTY</i>	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District: [*]	California County outside of this District; State, if other than California; or Foreign Country
<i>SAN BERNARDINO COUNTY</i>	

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District: [*]	California County outside of this District; State, if other than California; or Foreign Country
<i>SAN BERNARDINO COUNTY</i>	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):  Date 8-22-12

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))